

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 6037 Fireworks
SPONSOR(S): Commerce Committee, Grant
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 198

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	9 Y, 5 N	Brackett	Anstead
2) Commerce Committee	15 Y, 11 N, As CS	Brackett	Hamon

SUMMARY ANALYSIS

In Florida, the sale and use of fireworks is prohibited unless:

- The seller has registered as a distributor, manufacturer, retailer, seasonal retailer, or wholesaler with the State Fire Marshal;
- The seller is selling the fireworks to:
 - Another registered distributor, manufacturer, retailer, seasonal retailer, or wholesaler;
 - A buyer who is allowed to buy fireworks under the agricultural exception.
- A buyer has obtained a permit from a municipality for a public display of fireworks and has been determined to be a competent supervisor;
- A buyer has obtained a permit from a board of county commissioners for a public display of fireworks and has obtained a bond; or
- A buyer is using the fireworks to scare birds away from agricultural works or fish hatcheries.

Federal laws regulate the manufacture, sale and use of fireworks. Federal laws provide penalties, including fines, imprisonment, and civil penalties, for anyone who imports, distributes, or sells illegal fireworks.

In Florida, the sale and use of sparklers is permitted. However, in order to sell sparklers a seller must:

- Be registered as a distributor, manufacturer, retailer, seasonal retailer, or wholesaler with the State Fire Marshal; and
- Sell sparklers that have been tested and approved by the State Fire Marshal.

The bill repeals:

- The prohibition on the retail sale, use, or exploding of fireworks by any person;
- Fees and registration requirements for fireworks or sparkler distributors, manufacturers, wholesalers, seasonal retailers, and retailers; and
- The limitation that only registered distributors, manufacturers, retailers, seasonal retailers, and wholesalers may sell fireworks or sparklers.

The bill maintains:

- The requirements that a person performing a public display of fireworks obtain a permit, be a competent supervisor, and obtain a bond;
- The requirement that sparklers be tested and approved by the State Fire Marshal;
- The authority of local governments to regulate public displays of fireworks; and
- The minimum fireworks safety standards for the outdoor display of fireworks contained in the Code for Fireworks Display, 1995 Edition.

The bill is expected to have a negative fiscal impact on state government annually in the amount of \$275,000, but may have a positive impact on state government from an indeterminate increase in sales taxes. The bill has an indeterminate impact on local government.

The bill takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h6037c.COM

DATE: 2/20/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Chapter 791, F.S., regulates the sale and use of fireworks and sparklers in Florida. No person may offer for sale, sell at retail, or use or explode any fireworks unless they meet the provisions or exceptions in Florida law.¹ Sparklers are permitted under Florida law under certain conditions.

According to American Pyrotechnics Association, 45 states plus the District of Columbia allow some or all types of consumer fireworks, three states allow only wire or wood stick sparklers, and two states ban all consumer fireworks.²

Federal Regulation of Fireworks

Fireworks are regulated by the federal government through the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and the U.S. Consumer Product Safety Commission (CPSC).

Federal explosives laws categorize fireworks into three types - display fireworks, consumer fireworks, and articles pyrotechnic.³

“Display fireworks” are defined as “large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation.” Display fireworks include but are not limited to:

- Aerial shells containing more than 2 grains of explosive materials;
- Aerial shells containing more than 40 grams of pyrotechnic compositions;
- Other display pieces that exceed the limits of explosive materials for consumer fireworks; and
- Fused set pieces containing components which together exceed 50 milligrams of salute powder.⁴

The ATF requires anyone engaging in the business of manufacturing, importing, or dealing in display fireworks to have an ATF explosive license, and anyone importing for their own use or receiving or transporting display fireworks to have an ATF permit.⁵

“Consumer fireworks” are defined as “any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission.” The definition also includes “some small devices designed to produce audible effects...such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials.”⁶

¹ See ch. 791, F.S.

² The American Pyrotechnics Association was founded in 1948, represents the entire fireworks industry, and works toward the responsible regulation of the fireworks industry. APA, *2017 State Fireworks Control Laws*, <http://www.americanpyro.com/assets/docs/FactsandFigures/2017updated%20state%20laws%20firework%20map.pdf> (last visited on Feb. 16, 2018).

³ 27 U.S.C. § 555 (2017) & 27 U.S.C. § 555.11 (2017).

⁴ 27 U.S.C. § 555.11 (2017).

⁵ 27 U.S.C. § 555.26 (2017) & 27 U.S.C. § 555.41 (2017).

⁶ 27 U.S.C. § 555.11 (2017).

Manufacturers of consumer fireworks must have an ATF license. However, the ATF generally does not regulate the importation, distribution, and storage of consumer fireworks.

“Articles pyrotechnic” are defined as “pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use.”⁷

A manufacturer of consumer fireworks or articles pyrotechnics must have an ATF manufacturer’s license because consumer fireworks contain pyrotechnic compositions, which are classified as explosive materials.⁸

The CPSC regulates the use of consumer fireworks under the Federal Hazardous Substances Act (FHSA).⁹ The FHSA prohibits the sale to consumers of the most dangerous types of fireworks including:

- Large reloadable mortar shells;
- Cherry bombs;
- Aerial bombs;
- M-80 aerials; and
- Larger firecrackers containing more than 2 grains of explosive materials.¹⁰

Any person who imports, distributes, or sells a prohibited firework under the FHSA to a consumer is guilty of a misdemeanor and subject to a fine of not more than \$500 and/or imprisonment for not more than 90 days. For second or subsequent offenses, or if the person intended to defraud or mislead, the person is subject to a fine of up to \$250,000 and/or imprisonment for not more than 5 years. Any person who imports, distributes, or sells a prohibited firework under the FHSA to a consumer may also be subject to a civil penalty up to \$100,000 for each violation and up to \$15,000,000 for any series of violations.¹¹

The CPSC and the ATF do not regulate the age that a person must be in order to purchase and use consumer fireworks.¹² The determination of who may purchase and use consumer fireworks is left up to the states. However, the CPSC advises that young children should not be allowed to use consumer fireworks and older children should only be allowed to use consumer fireworks under the close supervision of an adult.¹³

The CPSC provides an annual report on the number of non-occupational, fireworks-related deaths and injuries in the U.S. during the previous year. The CPSC reported that in 2016 there were an estimated 11,100 injuries involving fireworks in the U.S. The CPSC also reported that there were at least 4 deaths including a 42 year old male in Florida who died from a malfunctioning firework.¹⁴

⁷⁷ *Id.*

⁸ 27 U.S.C. § 555.11 (2017); 27 U.S.C. § 555.141 (2017); ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Are ‘consumer fireworks’ subject to regulation under the Federal explosive laws?*, <https://www.atf.gov/explosives/qa/are-%E2%80%9Cconsumer-fireworks%E2%80%9D-subject-regulation-under-federal-explosives-laws> (last visited on Jan. 10, 2018); ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Are “Articles Pyrotechnic” subject to the requirements of the Federal explosive regulations?*, <https://www.atf.gov/explosives/qa/are-%E2%80%9Carticles-pyrotechnic%E2%80%9D-subject-requirements-federal-explosives-regulations>.

⁹ 15 U.S.C. § 1261 (2017).

¹⁰ 16 U.S.C. § 1500 (2017).

¹¹ See 15 U.S.C. § 1263 (2017); 15 U.S.C. § 1264 (2017); 18 U.S.C. § 3571 (2017).

¹² See ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Are ‘consumer fireworks’ subject to regulation under the Federal explosive laws?*.

¹³ U.S. Consumer Product Safety Commission, *Fireworks Publication #12*, https://www.cpsc.gov/s3fs-public/2016%20Fireworks%20Fact%20Sheet_0.pdf (last visited on Feb. 19, 2018).

¹⁴ Tu, Yongling, *2016 Fireworks Annual Report: Fireworks-Related Deaths and Emergency Department-Treated Injuries During 2016*, 1 & 8 (June 2017).

Florida Regulation of Fireworks and Sparklers

In Florida, fireworks are defined as “any combustible or explosive composition or substance or combination of substances or, except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.” Fireworks include:

- Blank cartridges and toy cannons in which explosives are used;
- Balloons which require fire underneath to propel them;
- Firecrackers;
- Torpedoes;
- Skyrockets;
- Roman candles;
- Dago bombs; and
- Any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.¹⁵

Fireworks do not include the following, the sale and use of which is permitted under certain conditions:

- Sparklers approved by the State Fire Marshal;
- Toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing that a person’s hand cannot come into contact with the cap when in place for the explosion;
- Toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture; and
- A trick noisemaker, which is a device that produces a small report intended to surprise a user, including a:
 - Party popper;
 - Booby trap;
 - Snapper;
 - Trick match;
 - Cigarette load; and
 - Auto burglar alarm.
- The following novelties:
 - A snake or glow worm, which is a pressed pellet of not more than 10 grams of pyrotechnic composition that produces a large, snakelike ash which expands in length as the pellet burns and that does not contain mercuric thiocyanate; and
 - A smoke device, which is a tube or sphere containing not more than 10 grams of pyrotechnic composition that, upon burning, produces white or colored smoke as the primary effect.¹⁶

Sparklers are hand-held or ground-based devices that emit showers of sparks when they are burned. Sparklers do not explode, detonate, contain explosive compounds, are not self-propelled, and have a limited number of combustible chemicals.¹⁷

All sparklers sold in Florida must be approved by the State Fire Marshal. Sparklers not approved by the State Fire Marshal are considered fireworks. Any person wishing to sell a product as a sparkler in Florida must first submit the product to the State Fire Marshal for testing to determine if the product meets the definition of a sparkler. On February 1 of each year, the State Fire Marshal must publish a list of the approved sparklers. All approved sparklers may be sold until January 31st of the following year.¹⁸

¹⁵ s. 791.01(4)(a), F.S.

¹⁶ s. 791.01(4)(b) & (c), F.S.

¹⁷ s. 791.01(8), F.S.

¹⁸ s. 791.013(1), F.S.

Any person who alters an approved sparkler, so that it is no longer a sparkler, and subsequently sells the altered sparkler as an approved sparkler commits a first-degree misdemeanor. Any person who fraudulently represents a product that is not an approved sparkler as an approved sparkler commits a first-degree misdemeanor.¹⁹

Pursuant to s. 791.012, F.S., the outdoor display of fireworks is governed by the National Fire Protection Association (NFPA) 1121, Code for Fireworks Display, 1995 Edition, approved by the American National Standards Institute.²⁰ Any state, county, or municipal law, rule, or ordinance may provide for more stringent regulations, but in no event may any such law, rule, or ordinance provide for less stringent regulations for the outdoor display of fireworks. However, the Code for Fireworks Display does not govern the display of any fireworks on private residential property.²¹

Florida allows the public display of fireworks in municipalities if police and fire chiefs have determined that the display is done by a competent supervisor, and the display does not endanger any person and is not hazardous to property.²²

The supervised public display of fireworks is permitted outside municipalities by fair associations, amusement parks, and other organizations or groups of individuals if the person doing the display obtains a bond of not less than \$500. The bond is for the payment of damages that may be caused to a person or property by the fireworks display, any acts of the person doing the display, his or her agents, employees, or subcontractors.²³

Municipalities and the boards of county commissioners have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks. Application for a permit must be made in writing at least 15 days in advance of the display. Upon obtaining a permit a person may engage in the lawful sale, possession, and distribution of fireworks for the display. Permits may not be transferred.²⁴

Distributors, Manufacturers, Wholesalers, and Retailers

A distributor is defined as any person who sells sparklers to a wholesaler. A manufacturer is defined as any person engaged in the manufacture or construction of sparklers in Florida. A wholesaler is defined as any person engaged in the business of selling sparklers to a retailer.²⁵

There are two types of retailers in Florida:

- A retailer, who is any person at a fixed place of business who sells sparklers to consumers at retail; and
- A seasonal retailer, who is any person engaged in the business of selling sparklers to consumers at retail from June 20th through July 5th and December 10th through January 2nd.²⁶

¹⁹ s. 791.013(2), F.S.

²⁰ The National Fire Protection Association was founded in 1896 and delivers information and knowledge through more than 300 consensus codes and standards, research, training, education, outreach and advocacy; and by partnering with others who share an interest in furthering the mission. The American National Standards Institute is a non-profit organization that aims to strengthen the U.S. market place, protect the environment, and assure the safety and health of consumers by creating and promulgating thousands of standards and guidelines. NFPA, *About NFPA*, <http://www.nfpa.org/about-nfpa> (last visited on Feb. 9, 2018); ANSI, *About ANSI*, https://www.ansi.org/about_ansi/overview/overview?menuid=1 (last visited on Feb. 9, 2018).

²¹ s. 791.012, F.S.

²² s. 791.02(1), F.S.

²³ *Id.* & s. 791.03, F.S.

²⁴ s. 791.02(1), F.S.

²⁵ s. 791.01(1), (5), & (9), F.S.

²⁶ s. 791.01(6) & (7), F.S.

In order to be a retailer, manufacturer, wholesaler, or distributor a person must register annually with the State Fire Marshal. A retailer who sells sparklers at multiple locations may submit one registration form as long as the retailer lists every location on the registration form.²⁷

The registration form must include the business name, address, telephone number, corporate officers (if a corporation), and a contact person. Annual registration fees are:

- \$1,000 for registration as a manufacturer, distributor, or wholesaler;
- \$200 for registration as a seasonal retailer; and
- \$15 for each location registered by a non-seasonal retailer.²⁸

In addition to being able to manufacture, construct, or sell sparklers depending on the registration, wholesalers, distributors, manufacturers, and retailers may:

- Sell fireworks to other registered wholesalers, manufacturers, and distributors;
- Sell fireworks that are to be shipped out of Florida;
- Sell fireworks to anyone holding a public firework display permit from a board of county commissioners.²⁹

Retailers and seasonal retailers may not sell sparklers, fireworks, or any other product authorized for sale by ch. 791, F.S., unless the retailer or seasonal retailer obtained the product from a registered manufacturer, distributor, or wholesaler. Retailers and seasonal retailers are also required to keep, at every location where sparklers are sold, evidence of purchases from manufacturers, distributors, or wholesalers. The evidence must have the manufacturer, distributor, or wholesaler's registration number, and the specific items purchased by the retailer or seasonal retailer. Each seasonal retailer must also display a copy of his or her registration at each seasonal location.³⁰

Agricultural Exception to Fireworks Prohibition

Pursuant to s. 791.07, F.S., nothing shall prohibit the importation, purchase, sale, or use of fireworks to be used solely and exclusively to scare birds from agricultural works and fish hatcheries. Such use is governed by rules prescribed by the Department of Agriculture and Consumer Services (DACS). Current law does not provide for an age restriction for the purchase of fireworks to scare birds from agricultural works and fish hatcheries.

DACS has adopted a rule that requires any person who wishes to use firecrackers to scare birds first file a written statement, with the sheriff in the county where the agricultural work or fish hatchery is located, attesting that he or she intends to use the firecrackers solely for the purpose of scaring birds.³¹ A person may purchase firecrackers from an authorized seller upon presenting the seller a copy of the written statement he or she has filed with the sheriff.³²

Local news stations have reported that the ability to buy fireworks in order to scare birds is a "loophole" to the prohibition of the purchase of fireworks by people who are not registered with the State Fire Marshal. According to the local news stations, retailers require a person to sign a form attesting that they are purchasing fireworks to scare birds from agricultural works or fish hatcheries in order to purchase the fireworks.³³ Florida Courts have determined that it is not the responsibility of a seller to check the veracity of a buyer's form attesting that the fireworks are to be used to scare birds.³⁴

²⁷ s. 791.015(1), F.S.

²⁸ s. 791.015(3), F.S. & Rule 69A-50.005, F.A.C.

²⁹ s. 791.04, F.S.

³⁰ s. 791.02(2), F.S.

³¹ Rule 5A-3.001, F.A.C.

³² Rule 5A-3.002, F.A.C.

³³ Jenna Bourne, *Fireworks in Florida: What's legal, what's not*, Action News Jax (Jul. 3, 2017),

<http://www.actionnewsjax.com/news/local/fireworks-in-florida-whats-legal-whats-not/548729275> & Kathryn Marsh, *Legal Loophole for Florida Fireworks*, Fox4 (Jun. 28, 2017), <https://www.fox4now.com/news/local-news/legal-loophole-for-florida-fireworks>.

³⁴ See *State v. Miketa*, 824 So. 2d 970 (Fla. 3d DCA 2002).

On February 13, 2018, testimony was offered during the regular meeting of the Florida House of Representatives Commerce Committee that it is standard practice for retailers to not sell fireworks to minors under the agricultural exception because minors cannot legally sign the form required by the retailers.³⁵

Consumer Fireworks Task Force/Limits on Retail Sales Facilities

In 2007, the Legislature passed and the Governor signed into law SB 1372. The 2007 Legislature found that:

- The state regulation of consumer fireworks in Florida provides an insufficient definition of consumer fireworks and related products used by consumers;
- There is a need for better training and education concerning the safe use of consumer fireworks;
- There should be a mechanism to help local governments fund the cleanup following the use of consumer fireworks on public property;
- Local government regulation of the agricultural uses authorized by s. 791.07, F.S., may be inconsistent with legitimate agricultural purposes;
- There is a need for consumer education relating to safety standards in the use of consumer fireworks;
- There is need for standards concerning tents and other temporary retail facilities selling consumer fireworks; and
- The state would benefit from additional funding for the training and education of fire officials.³⁶

SB 1372 established the Consumer Fireworks Task Force (Task Force), housed within DACS, for the purpose of studying issues concerning consumer fireworks, including the:

- Proper use of consumer fireworks;
- The regulation of sales and temporary sale facilities;
- Regulation of the hours and location of use;
- Property zoning classifications for sale facilities;
- Funding options for fire official training and education; and
- Funding options for cleanup of expended consumer fireworks products.³⁷

SB 1372 also enacted limits on retail sales facilities for consumer fireworks.

The limits provided that:

- A new permanent fireworks retail sales facility may not be opened in Florida after March 8, 2007, for the purpose of selling fireworks in accordance with the agricultural exception, unless construction for the permanent retail sales facility received site plan approval and construction began on or before March 8, 2007; and
- The number of permits for temporary fireworks retail sales facilities, such as tents, issued after March 8, 2007, by a county, municipality, or other unit of local government, may not exceed the number of permits the governmental entity issued for facilities selling fireworks in accordance with the agricultural exception during the 2006 calendar year.³⁸

Although the above limitations were enacted pending the Legislature's review of the Task Force's recommendations, the limitations remain in effect today.

The Task Force completed its report and submitted its report to the Legislature on January 15, 2008.³⁹

³⁵ See The Florida Channel, *2/13/2018 House Commerce Committee*.

³⁶ Ch. 2007-67, Laws of Fla.

³⁷ *Id.*

³⁸ *Id.*

³⁹ 2016-05 Fla. Op. Att'y Gen. 37 (2016).

In June 2016, the City of Altamonte Springs requested an advisory opinion from the Florida Office of the Attorney General because the City wanted to know if it could issue a new permit for the sale of fireworks. The AG determined that local governments are prohibited from allowing new facilities to be opened for the sale of fireworks, and local governments may only issue as many permits allowing temporary facilities for the sale of fireworks as they had issued in 2006.⁴⁰

State Fire Marshal

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety and has the responsibility to minimize the loss of life and property in this state due to fire. Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.⁴¹

In addition to these duties, the State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all fire safety rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules, at ch. 69A-60, F.A.C. The State Fire Marshal adopts a new edition of the FFPC every three years. The FFPC includes national fire safety and life safety standards set forth by the NFPA, including the NFPA's Fire Code (1), Life Safety Code (101) and Guide on Alternative Approaches to Life Safety (101A).⁴²

Effect of the Bill

The bill repeals:

- The prohibition on the sale, use, or exploding of fireworks by any person;
 - Thus any person, including minors, may be able to legally purchase and use fireworks without the use of the agricultural exception.
- Fees and registration requirements for fireworks and sparkler distributors, manufacturers, wholesalers, and retailers;
- The limitation that only registered distributors, manufacturers, retailers, seasonal retailers, and wholesalers may sell fireworks or sparklers;
- The requirement that all retailers and seasonal retailers maintain evidence of every purchase of products from manufacturers, distributors, and wholesalers;
- The requirement that all seasonal retailers display their registration at every seasonal retailer location; and
- The definition of distributors, manufacturers, retailers, and seasonal retailers.

The bill also repeals the provisions that allow manufacturers, distributors, and wholesalers to sell fireworks:

- To other registered manufacturers, distributors, and wholesalers;
- That are being shipped out of Florida; and
- To anyone holding a public firework display permit from a board of county commissioners.

The bill maintains:

- The requirements that a person performing a public display of fireworks obtain a permit, be a competent supervisor, and obtain a bond;
- The requirement that sparklers be tested and approved by the State Fire Marshal;

⁴⁰ *Id.*

⁴¹ s. 633.104, F.S.

⁴² s. 633.202(2), F.S.

- The authority of local governments to regulate public displays of fireworks; and
- The minimum fireworks safety standards for the outdoor display of fireworks contained in the Code for Fireworks Display, 1995 Edition.

Anyone who manufactures, sells, or uses fireworks must still comply with federal laws and regulations and counties and municipalities may still provide more stringent regulations than those contained in the Code for Fireworks Display.

B. SECTION DIRECTORY:

- Section 1.** Repeals s. 791.015, F.S., requiring distributors, manufacturers, retailers, seasonal retailers, and wholesalers must register with DFS.
- Section 2.** Amends s. 791.02, F.S., repealing the provision prohibiting the sale or use of any fireworks and the provision requiring retailers to purchase fireworks from distributors, manufacturer, and wholesalers registered with the State Fire Marshal.
- Section 3.** Amends s. 791.01, F.S., repeals the definitions of distributor, manufacturer, retailer, seasonal retailer, and wholesaler, and amends the definition of fireworks.
- Section 4.** Amends s. 791.012, F.S., conforming language.
- Section 5.** Amends s. 791.04, F.S., repealing the provision that allows distributors, manufacturers, and wholesalers to sell fireworks under certain conditions.
- Section 6.** Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
Unknown.
2. Expenditures:

According to DFS, "Fiscal impacts on local governments may increase due to total regulation of the sparkler industry, as well as the need to respond to more injury calls. According to the National Fire Protection Association (NFPA), fireworks cause more than 18,500 fires each year and U.S. hospital emergency rooms saw an estimated 10,500 people for fireworks injuries in 2014."⁴³

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

⁴³ Florida Department of Financial Services, Agency Analysis of 2018 House Bill 6037, p. 2 (Nov. 15, 2017).
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Private entities wishing to sell sparklers and fireworks will no longer have to register with the State Fire Marshal.⁴⁴

D. FISCAL COMMENTS:

According to DFS, the State Fire Marshal issues approximately 4,500 annual registrations for the sale of sparklers, which amounts to an estimated \$275,000 in revenue from annual registration fees. Because registration will no longer be required there will be a net annual reduction of \$275,000 in revenue collected by the State.⁴⁵

The state may see an increase in sales taxes due to a likely increase in sales of fireworks and sparklers based on an increase in availability. The tax impact is indeterminable at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill repeals the prohibition of the sale of fireworks while also leaving it up to counties to regulate such. The bill does not provide any prohibition on the sale of fireworks to minors. Thus counties may set age limits by ordinance.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2018, the Commerce Committee adopted two amendments and reported the bill favorably as a committee substitute. The committee substitute maintains current law with regard to:

- The requirement that sparklers be tested and approved by the State Fire Marshal;
- Criminal penalties for altering a sparkler and selling it or fraudulently selling a product as a sparkler.
- The requirement that a person performing a public display of fireworks in a municipality must be a competent supervisor;
- The requirement that a person performing a public display of fireworks in a county must obtain a bond; and
- The ability of counties and municipalities to adopt reasonable rules and regulations for adopting permits for the public display of fireworks.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.

⁴⁴ *Id.*

⁴⁵ *Id.*